IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 3981/2002

M/S GEE KAY CEMENT PRIVATE LTD. & ANR.
Vs.
STATE OF RAJASTHAN & ORS.

DATE: 23.10.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

None present for the petitioners.
Mr. B.S. Chhaba, Dy. GA for the State.

****

This writ petition is directed against the order dated 25.01.2002 as well as the notification dated 10.12.96.

The controversy in this writ petition is with regard to exemption of tax in view of the notification dated 23.05.87. The petitioner as per the provisions of the shceme applied for benefit under the notification dated 23.05.87 exempting the industrial units from payment of tax on sales of goos manufactured by the unit. As per the provisions of scheme issued vide notification dated 23.05.87, the new small scale industries units were exempted from payment of tax on 100% of the fixed capital investment or for a time limit of 7 years whichever is earlier. The designated

authority under the scheme, as per clause 2k(ii) is the District Level Committee empowered to sanction the exemption of tax and on the basis of sanction/decision made by the District Level Screening Committee the respondent No.3 i.e. Assistant Commissioner, Special Circle, Alwar on 29.09.94 issued eligibility certificate with effect from 19.01.94 to 18.01.2001.

The controversy arose when notice dated 10.01.2002 was issued by the respondent No.3 for amendment in the eligibility certificate and it was proposed in the notice that due to the amendment in scheme on 10.12.96, the maximum limit of tax exemption was to be restricted to Rs. 100 lacs only and, therefore, the eligibility certificate issued for Rs. 103.30 lacs was proposed to be amended. On 19.12.96, the State Government issued amendment notification, wherein the proviso was added to Annexure 'C' of the notification, which is reproduced as under:-

> “Provided that the extent of percentage of exemption from tax for the cement units except in Tribal sub plan area, shall be 75%, 50% & 25% of total tax liability in case of small, medium & large units respectively. The quantum of sales tax exemption shall be 125% in case of small scale sector unit subject to an overall limit of Rs. 1.00 crore and 100% of fixed capital investment in case of medium & large scale units subject to an overall limit of Rs. 4 crore.”

This rectification order dated 25.01.2002 as well as the amendment dated 10.12.96 is challenged by the petitioner on the ground that after issuing eligibility certificate the respondents are estopped to amend the same and by the principles of promissory estoppel to amend the eligibility certificate and the action of the respondent No.3 is barred by limitation as the provisions under the Rajasthan Sales Tax Act, Section 37 provides for period of three years from the date of order in which the order could have been rectified. The petitioner further submits that amendment cannot be made effective retrospectively.

Upon perusal of the impugned order dated 25.01.2002 passed by the Assistant Commissioner, Special Circle, Alwar and having gone through the averments made in the writ petition, it is not disputed that the eligibility certificate was issued in favour of the petitioners on the basis of the prevalent rules and it is also not disputed that the same has been amended vide notification dated 10.12.96, by which the amendment has been incorporated and the eligibility certificate issued for tax exemption of Rs. 103.30 lacs is reduced to Rs. 100 lacs.

For making a policy, the Government is empowered and tax exemption is only permissible to the

small scale units registered under small scale industries and the exemption granted by the Government cannot be claimed as a right and the Government is empowered to amend the same and has rightly been amended from exemption limit of Rs. 103.30 lacs to Rs. 100 lacs. Thus, I find no illegality in the impugned notification dated 10.12.96 as well as the order impugned dated 25.01.2002 passed by the Assistant Commissioner, Special Circle, Alwar.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

(K.S. RATHORE),J.

/KKC/